

(b) The Corps of Engineers, the South Florida Water Management District, and other non-Federal sponsors shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, implement the Plan, as authorized by Congress, to ensure the protection of water quality in, the reduction of the loss of fresh water from, and the improvement of the environment of the South Florida ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to section 601 of WRDA 2000, for as long as the project is authorized.

(c) The goal of the Plan is to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region. The Plan is designed to accomplish this by providing the quantity, quality, timing, and distribution of water necessary to achieve and sustain those essential hydrological and biological characteristics that defined the undisturbed South Florida ecosystem. As authorized by Congress, the restored South Florida ecosystem will be significantly healthier than the current system; however it will not completely replicate the undisturbed South Florida ecosystem and some areas may more closely replicate the undisturbed ecosystem than others. Initial modeling showed that most of the water generated by the Plan would go to the natural system in order to attain restoration goals, and the remainder of the water would go for use in the human environment. The Corps of Engineers, the South Florida Water Management District, and other non-Federal sponsors shall ensure that Project Implementation Reports identify the appropriate quantity, timing, and distribution of water to be dedicated and managed for the natural system that is necessary to meet the restoration goals of the Plan. In accordance with the “Comprehensive Everglades Restoration Plan Assurance of Project Benefits Agreement,” dated January 9, 2002 pur-

suant to section 601(h)(2) of WRDA 2000, the South Florida Water Management District or the Florida Department of Environmental Protection shall make sufficient reservations of water for the natural system under State law in accordance with the Project Implementation Report for that project and consistent with the Plan before water made available by a project is permitted for a consumptive use or otherwise made unavailable.

(d) The Corps of Engineers and non-Federal sponsors shall implement the Plan in a manner to continuously improve the expected performance level of the Plan based upon new information resulting from changed or unforeseen circumstances, new scientific and technical information, new or updated modeling; information developed through the adaptive assessment principles contained in the Plan; and future authorized changes to the Plan integrated into the implementation of the Plan.

§ 385.9 Implementation principles.

The Corps of Engineers and the South Florida Water Management District and other non-Federal sponsors shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, conduct activities, including program-level activities, necessary to implement the Plan. Such activities shall be conducted as part of an integrated implementation program, in accordance with this part, and based on the following principles:

(a) Individual projects shall be formulated, evaluated, and justified based on their ability to contribute to the goals and purposes of the Plan and on their ability to provide benefits that justify costs on a next-added increment basis.

(b) Interim goals shall be established in accordance with § 385.38 to provide a means for evaluating restoration success of the Plan at specific time intervals during implementation. Interim

targets to evaluate progress on providing for other water-related needs of the region provided for in the Plan shall be established in accordance with § 385.39. Interim goals and interim targets shall be consistent with each other.

(c) Endorsement of the Plan as a restoration framework is not intended as a constraint on innovation during implementation through the adaptive management process. Continuous improvement of the Plan shall be sought to ensure that new information resulting from changed or unforeseen circumstances, new scientific and technical information, new or updated modeling; information developed through the assessment principles contained in the Plan; and future authorized changes to the Plan are integrated into the implementation of the Plan. The adaptive management process provides a means for analyzing the performance of the Plan and assessing progress towards meeting the goals and purposes of the Plan as well as a basis for improving the performance of the Plan. Improving the performance of the Plan means enhancing the benefits of the Plan in terms of restoration of the natural system while providing for other water-related needs of the region, including water supply and flood protection.

§ 385.10 Implementation responsibilities, consultation, and coordination.

(a) *Implementing agencies.* Implementation of the Plan shall be the responsibility of the Corps of Engineers and the non-Federal sponsors.

(b) *Consultation*—(1) *Consultation with tribes.* (i) In addition to any other applicable provision for consultation with Native American Tribes, including but not limited to, laws, regulations, executive orders, and policies the Corps of Engineers and non-Federal sponsors shall consult with and seek advice from the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida throughout the implementation process to ensure meaningful and timely input by tribal officials regarding programs and activities covered by this part. Consultation with the tribes

shall be conducted on a government-to-government basis.

(ii) In carrying out their responsibilities under section 601 of WRDA 2000 with respect to the restoration of the South Florida ecosystem, the Secretary of the Army and the Secretary of the Interior shall fulfill any obligations to the Indian tribes in South Florida under the Indian trust doctrine as well as other applicable legal obligations.

(2) *Consultation with agencies.* The Corps of Engineers and non-Federal sponsors shall consult with and seek advice from the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Florida Department of Environmental Protection, and other Federal, State, and local agencies throughout the implementation process to ensure meaningful and timely input by those agencies regarding programs and activities covered under this part. The time for, and extent of, consultation shall be appropriate for, and limited by, the activity involved.

(c) *Coordination.* The Corps of Engineers and the non-Federal sponsor shall coordinate implementation activities and the preparation of documents with other Federal, State, and local agencies and the tribes to fulfill the requirements of all applicable Federal and State laws, including but not limited to, the Fish and Wildlife Coordination Act, the National Environmental Policy Act, the Clean Air Act, the Clean Water Act, the National Historic Preservation Act, the Coastal Zone Management Act, the Marine Mammal Protection Act, and the Endangered Species Act.

(d) *Timeliness obligations of consultation.* Consultation involves reciprocal obligations: on the part of the Corps of Engineers and the non-Federal sponsor to involve agencies, tribes, and the public at an early stage and in such a way to ensure meaningful consultation, and on the part of the parties consulted to respond in a timely and meaningful fashion so that the implementation of the Plan is not jeopardized and so that delays do not result in other adverse consequences to restoration of the natural system, to the other goals and purposes of the Plan, or to